IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

Bail Appl..No. 5664 of 2007()

CRIME NO.370/07 OF ADIMALY POLICE STATION

: PETITIONER/ACCUSED:

THANKACHAN, AGED 48 YEARS,
S/O. THOMAS, VELLILANKAL HOUSE, VALARA P.O.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
ADIMALY POLICE STATION, REP.BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5664 of 2007

Dated this the 19th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under Section 307 I.P.C. He has a strained relationship with his wife. The spouses are residing separately. On account of such strain in the relationship, the petitioner, it is alleged, had attempted to cause the death to his wife. He inflicted a stab injury on her back. She jumped into the water to save herself. The petitioner again inflicted an injury on his wife. The alleged incident took place on 29.08.07. Investigation is in progress. The petitioner has not been arrested so far.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. It is prayed that anticipatory bail may be granted to the petitioner.

3. The learned Public Prosecutor vehemently opposes the application. The learned Public Prosecutor submits that in the facts and circumstances of this case, there is absolutely no justification in the prayer to invoke the discretion under Section 438 Cr.P.C. The petitioner is allegedly guilty of a very cruel and gruesome act. The extraordinary equitable discretion under Section 438 Cr.P.C may not be invoked in favour of the petitioner, it is prayed.

4. I find merit in the opposition by the learned Public Prosecutor. I am satisfied that this is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigating Officer or the learned Magistrate having jurisdiction. He must then seek regular bail.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-